FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
NAGPUR BENCH, NAGPUR

Civil Revision Application No. 81/2006

Appeal Application No. Writ petition	District : of 200

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

Shri. A.V. Bhide, Adv. for petitioner.
Shri. M.G. Bhangde, Adv. for respondent.

CORAM : B.R. Gavai, J.
DATED : September 4, 2006.

By way of present revision application, the applicants challenge the order passed by the learned 2nd Ad hoc Additional District Judge, Yavatmal, dated 17th June, 2006, vide which the application of the respondent for condonation of delay in filing appeal has been allowed.

The present respondent had filed appeal challenging the order passed by the Asstt. Charity Commissioner on Scheme application. Along with the appeal, an application for condonation of delay also came to be filed. Earlier, vide order dated 26th August, 2005, said application was rejected. However, the matter came up before this Court and this Court remanded the matter for

consideration afresh.

On remand, after evidence was led on behalf of both the parties, the learned appellate Court found that the respondent had made out a case for condonation of delay and as such, allowed the application for condonation of delay.

Shri Bhide, the learned counsel for the applicants, submitted that the learned appellate Court has totally ignored the evidence of independent witness i.e. Anil Landge who stated that the respondent had given a consent letter to him and the same was given by him to the present applicant no. 3. He, therefore, submitted that the learned appellate Court has exercised the jurisdiction with material irregularities in condoning the delay.

Perusal of the impugned order reveals that the name of the present respondent is not included in the list of fifty persons to whom the notices of the meeting dated 1/5/2003 were sent. It has further been found that the present applicants had not produced any material on record to show that written notice of the meeting was sent to the respondent. The learned appellate Court has also found that record of the Assistant Charity

Commissioner also does not reveal that any notice was sent to the respondent before the decision in the Scheme Proceedings.

By way of the impugned order, the learned appellate Court, instead of foreclosing the doors of justice to the litigants, has permitted the parties to agitate their grievance on its own merits. In my view, the order, therefore, advances purpose of justice. Jurisdiction exercised by the learned appellate Court cannot be said to have been exercised with material irregularities so as to warrant interference by this Court in exercise of its jurisdiction under Section 115 of the Code of Civil Procedure.

Hence civil revision application is rejected.

JUDGE

RMP